

Congress of the United States
Washington, DC 20510

September 20, 2017

Steven Walther
Chairman
Federal Election Commission
999 E. Street NW
Washington, D.C., 20463

Dear Chairman Walther:

We write to urge the Federal Election Commission to develop new guidance for advertising platforms on how to prevent illicit foreign spending in U.S. elections. The recent revelations that foreign nationals with suspected ties to the Russian government sought to influence the 2016 election through social media advertisements are deeply concerning and demand a response.

Foreign political activity is a direct assault on federal election law and the integrity of our elections. The Federal Election Campaign Act bars foreign nationals, companies, or governments from spending, either directly or indirectly, in U.S. elections.¹ The Commission's own plain language guidance on the matter makes clear that it is also illegal "to help foreign nationals violate that ban or to solicit, receive or accept contributions or donations from [foreign nationals]."² Those found in violation may be subject to "fines and/or imprisonment."³

On September 6, 2017, *The Washington Post* reported that Facebook recently disclosed to Congressional investigators that "the social network... sold ads during the U.S. presidential campaign to a shadowy Russian company seeking to target [American] voters."⁴ A portion of these advertisements, Facebook revealed, "directly named Republican nominee Donald Trump and Democrat Hillary Clinton." *The New York Times* went on to report, "ads, which ran between June 2015 and May 2017, were linked to some 470 fake accounts... created by a Russian company called the Internet Research Agency..."⁵

These reports, while highly alarming, are unfortunately not novel. For months, we have been confronted with reports of sustained foreign political activity in the 2016 election cycle. According to press reports, foreign nationals were shown to have routinely deployed sophisticated tactics in making political

¹ 52 USC § 3012: "It shall be unlawful for a foreign national, directly or indirectly, to make... an expenditure, independent expenditure, or disbursement for an electioneering communication..."

² FEC, *Foreign Nationals* (June 23, 2017) <https://transition.fec.gov/pages/brochures/foreign.shtml>

³ *Ibid*

⁴ Carol E. Leonnig et al., *Russian firm tied to pro-Kremlin propaganda advertised on Facebook during election*, WASH. POST, (Sept. 6, 2017) https://www.washingtonpost.com/politics/facebook-says-it-sold-political-ads-to-russian-company-during-2016-election/2017/09/06/32f01fd2-931e-11e7-89fa-bb822a46da5b_story.html?pushid=59b054ac5ea55a1d00000014&tid=notifi_push_breaking-news&utm_term=.0355347d92d0

⁵ Scott Shane & Vindu Goel, *Fake Russian Accounts Bought \$100,000 in Political Ads* N.Y. Times (Sept. 6, 2017) <https://www.nytimes.com/2017/09/06/technology/facebook-russian-political-ads.html?mcubz=0>

expenditures to evade detection, with the express purpose of undermining the integrity of our elections.⁶ There is no reason to believe this behavior will stop in future elections. Social media platforms offer the ability to target millions of users based upon a wealth of highly-detailed information. As we have seen, the low cost of reaching these users equips hostile foreign actors with a powerful new tool for disruption of our democratic process. Therefore, it is incumbent that the Commission take immediate action to preserve the integrity of our election law and our elections.

To that end, we encourage the Federal Election Commission to take immediate steps to understand the threats posed to our democratic process by foreign influenced internet and social media advertisement, and to promulgate new guidance on how advertisement platforms can better prevent foreign nationals from illicitly spending in future U.S. elections. Such guidance should address the following:

- What steps can be taken to eliminate existing loopholes in our campaign disclosure regime that permit hostile foreign actors using corporate or non-profit designations to evade disclosure of their political spending?
- What best practices can advertisement platforms employ to prevent illicit foreign campaign activity?
- How can those media platforms and advertising models most vulnerable to manipulation or evasion by hostile actors improve their internal protocols to better prevent illicit foreign campaign spending?
- How can disclosure standards be improved to ensure voters have the information they need to evaluate political advertising, whether the advertisement appears on broadcast television, the internet or otherwise?
- What measures of coordination can be readily utilized by the FEC to monitor illicit coordination between a campaign and a third party political spender, including foreign actors?

To be clear, our concerns do not lie with American citizens, interest groups, campaigns, or political action committees engaging in their Constitutional right to freely discuss the ideas and issues of the day to effectuate political or social change. Rather, we must address the threat posed by foreign citizens, companies, or organizations who aim to illegally interfere with our political process.

We are fast approaching the 2018 election cycle. As such, it is imperative the Federal Election Commission begin this effort in earnest. Should Congressional action on the subject – legislative or otherwise – be appropriate, we would welcome your recommendations.

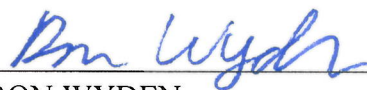
We request you respond to this letter no later than October 4, 2017 with a plan and a timeline for issuing guidance on these important matters. Thank you for your attention.

Sincerely,

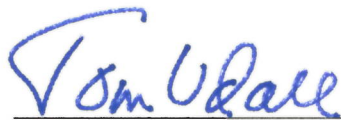
⁶ Federal Election Commissioner Ellen L. Weintraub, *MEMO: Discussion of Commission's Response to Alleged Foreign Interference in American Elections* (June 21, 2017) https://s3-us-gov-west-1.amazonaws.com/cg-47928592-406c-4536-8234-99b896e8d57d/cms-content/documents/mtgdoc_17-28-a.pdf



MARTIN HEINRICH
United States Senator



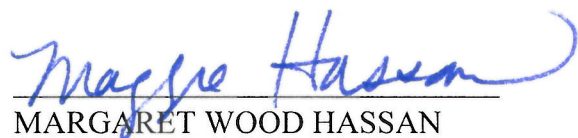
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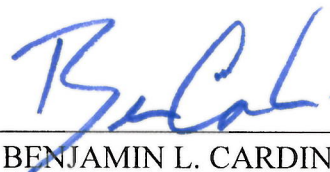
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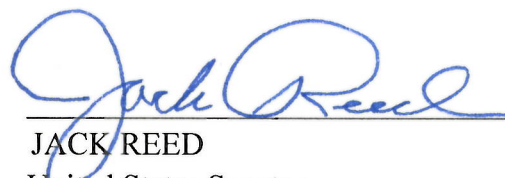
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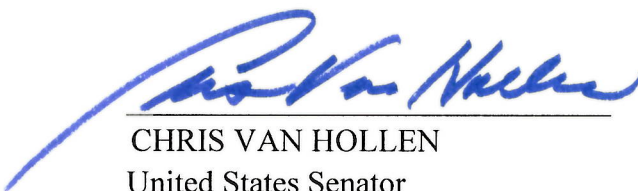
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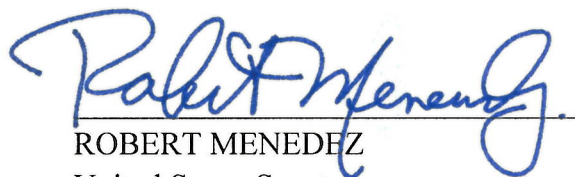
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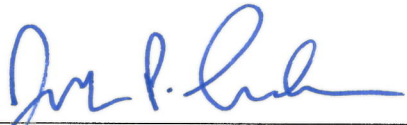
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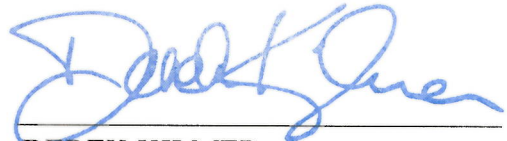
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United States Representative



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United States Representative



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United States Representative